

A BILL TO BE ENTITLED

AN ACT

providing for the regulation of weather modification operations; providing for the powers and duties of the Texas Water Development Board in weather modification operations; providing for the issuing of licenses and permits; providing fees and penalties; and defining terms; relating to cooperative agreements for weather modification and cloud seedings; and providing other matters properly relating thereto, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. SHORT TITLE. This Act may be cited as the Weather Modification Act.

Section 2. As used in this Act, unless the context requires otherwise:

1. "Board" means the Texas Water Development Board.
2. "Operation" means the performance of weather modification and control activities pursuant to a single contract entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding 1 year, or, if the performance of weather modification and control activities is to be undertaken individually or jointly by a person or persons to be benefited and not undertaken pursuant to a contract, "operation" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding 1 year.
3. "Research and development" means theoretical analysis, exploration and experimentation and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes including the experimental production and testing of models, devices, equipment, materials and processes.

4. "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

Section 3. In the performance of the functions authorized herein, the Board may, in addition to any other acts authorized by law:

1. Establish advisory committees to advise with and make recommendations to the Board concerning legislation, policies, administration, research and other matters.

2. Establish by regulation or order such standards and instructions to govern the carrying out of research or projects in weather modification and control as the Board may deem necessary or desirable to minimize danger to health or property, and make such regulations as are necessary in the performance of its powers and duties.

3. Make such studies, investigations, obtain such information and hold such hearings as the Board may deem necessary or proper to assist it in exercising its authority or in the administration or enforcement of this Act or any regulations or orders issued thereunder.

4. Appoint and fix the compensation of such personnel, in compliance with the provisions of the General Appropriations Bill including specialists and consultants, as are necessary to perform its duties and functions hereunder.

5. Acquire, in the manner provided by law, such materials, equipment and facilities as are necessary to perform its duties and functions hereunder.

6. Cooperate with public or private agencies in the performance of the Board's functions or duties and in furtherance of the purposes of this Act.

7. Represent the state in any and all matters pertaining to plans, procedures or negotiations for interstate compacts relating to weather modification and control.

8. Enter into cooperative agreements with the United States Government

or any of its agencies, or with the various counties and cities of this state or with any private or public agencies for conducting weather modification or cloud seeding operations.

9. Act for and represent the state and the counties, cities and private or public agencies in contracting with private concerns for the performance of weather modifications or cloud seeding operations.

Section 4. The Board shall exercise its powers in such manner as to promote the continued conduct of research and development activities in the fields specified below by private or public institutions or persons and to assist in the acquisition of an expanding fund of theoretical and practical knowledge in such fields. To this end the Board may conduct, and make arrangements including contracts and agreements for the conduct of, research and development activities relating to:

1. The theory and development of methods of weather modification and control, including processes, materials and devices related thereto.

2. Utilization of weather modification and control for agricultural, industrial, commercial and other purposes.

3. The protection of life and property during research and operational activities.

Section 5. In the case of hearings held pursuant to Section 17 of this Act, the Board shall, and in other cases may, cause a record of all proceedings to be taken and filed with the Board together with its findings and conclusions. For any hearing, the Board or a representative designated by it is authorized to administer oaths and affirmations, examine witnesses and issue, in the name of the Board, notice of the hearing or subpoenas requiring any person to appear and testify or to appear and produce documents, or both, at any designated place.

Section 6.

1. The Board may, subject to any limitations otherwise imposed by law, receive and accept for and in the name of the State any funds which may be offered or become available from federal grants or appropriations, private gifts, donations or bequests, or from any other source, and may expend such funds, unless their use is restricted and subject to any limitations otherwise provided by law, for the administration of this act and for the encouragement of research and development by a state or public or private agency, either by direct grant, by contract or other cooperative means.

2. All license and permit fees paid to the Board shall be deposited in the General Revenue Fund of the State Treasury.

Section 7. Except as provided in Section 9 of this Act, no person shall engage in activities for weather modification and control except under and in accordance with a license and a permit issued by the Board authorizing such activities.

Section 8. The Board, to the extent it deems practical, shall provide by regulation for exempting from the license and permit requirements of this chapter:

1. Research and development and experiments by state and federal agencies, institutions of higher learning and bona fide nonprofit research organizations.

2. Laboratory research and experiments.

3. Activities of an emergent character for protection against fire, frost, sleet or fog.

4. Activities normally engaged in for purposes other than those of inducing, increasing, decreasing or preventing precipitation or hail.

Section 9.

1. Licenses to engage in activities for weather modification and control

shall be issued to applicants therefor who pay the license fee required and who demonstrate, to the satisfaction of the Board, competence in the field of meteorology reasonably necessary to engage in activities for weather modification and control. If the applicant is an organization, these requirements shall be met by the individual or individuals who are to be in control and in charge of the operation for the applicant.

2. The Board shall issue licenses in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter. Each license shall be issued for a period to expire at the end of the state fiscal year in which it is issued and, if the licensee possesses the qualifications necessary for the issuance of a new license, such license shall upon application be renewed at the expiration of such period. A license shall be issued or renewed only upon the payment to the Board of \$50.00 for the license or renewal thereof.

Section 10. The Board shall issue permits in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this act only:

1. If the applicant is licensed pursuant to this chapter.
2. If a sufficient notice of intention is published and proof of publication is filed as required by Section 13 of this Act.
3. If the fee for a permit is paid as required by Section 15 of this Act.

Section 11. A separate permit shall be issued for each operation. Prior to undertaking any weather modification and control activities the licensee shall file with the Board and also cause to be published a notice of intention. The licensee, if a permit is issued, shall confine his activities for the permitted operation substantially within the time and area limits set forth in the notice of intention, unless modified by the Board, and his activities shall also conform to any conditions imposed by the Board upon the issuance of the permit or to the terms of the permit as modified after issuance.

Section 12. The notice of intention shall set forth at least all of the following:

1. The name and address of the licensee.
2. The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted.
3. The area in which and the approximate time during which the operation will be conducted.
4. The area which is intended to be affected by the operation.
5. The materials and methods to be used in conducting the operation.

Section 13.

1. The applicant shall cause the notice of intention, or that portion thereof including the items specified in Section 12 of this Act, to be published at least once a week for 3 consecutive weeks in a newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a newspaper having a general circulation and published within each of such counties. In case there is no newspaper published within the appropriate county, publication shall be made in a newspaper having a general circulation within the county.

2. Proof of publication together with publisher's affidavit, shall be filed by the licensee with the Board within 15 days from the date of the last publication of the notice.

Section 14. Proof of financial responsibility may be furnished by an applicant by his showing, to the satisfaction of the director, his ability to respond in damages for liability which might reasonably be attached to or result from his weather modification and control activities in connection with the operation for which he seeks a permit.

Section 15. The fee to be paid by each applicant for a permit shall not exceed \$25.00.

Section 16.

1. Each licensee shall keep and maintain a record of all operations conducted by him pursuant to his license and each permit, showing the method employed, the type of equipment used, materials and amounts thereof used, the times and places of operation of the equipment, the name and post office address of each individual participating or assisting in the operation other than the licensee, and such other general information as may be required by the Board, and shall report the same to the Board at the time and in the manner required by the Board.

2. The Board shall require written reports, but not inconsistent with the provisions of this Act, covering each operation for which a permit is issued. The Board shall also require written reports from such organizations as are exempt from the license, permit and liability provisions of Section 8.

3. All information on an operation shall be submitted to the Board before any information on such operation may be released to the public.

4. The reports and records in the custody of the Board shall be open for public examination as public documents.

Section 17.

1. The Board may suspend or revoke any license or permit issued if it appears that the licensee no longer possesses the qualifications necessary for the issuance of a new license or permit. The Board may suspend or revoke any license or permit if it appears that the licensee has violated any of the provisions of this Act. Such suspension or revocation shall occur only after notice to the licensee and a reasonable opportunity granted such licensee to be heard respecting the grounds for the proposed suspension or revocation. The Board may refuse to renew the license of, or to issue another permit to, any applicant who has failed to comply with any provisions of this Act.

2. The Board may modify the terms of a permit after issuance thereof if the licensee is first given notice and a reasonable opportunity for a hearing respecting the grounds for the proposed modification and if it appears to the Board that it is necessary for the protection of the health or the property of any person to make the modification proposed.

Section 18. Nothing in this Act shall be construed to impose or accept any liability or responsibility on the part of the state or any state officials or employees for any weather modification and control activities of any private person or group, or to affect in any way any contractual, tortious or other legal rights, duties or liabilities between any private persons or groups, provided however, that any operation conducted pursuant to the license and permit requirements of this Act shall not constitute "an ultrahazardous activity" such as to subject the participants therein to liability without fault.

Section 19. Any person violating any of the provisions of this chapter or any lawful regulation or order issued pursuant thereto shall be guilty of a misdemeanor and a continuing violation punishable as a separate offense for each day during which it occurs, and upon conviction shall be imprisoned in the county jail for not more than 10 days or by a fine of not less than \$100.00 nor more than \$1,000.00, or by both, for each such separate offense.

Section 20. Severability Clause. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared severable.

Section 21. The fact that the public interest, health, safety, and welfare require that scientific experimentation in the field of artificial nucleation, and scientific efforts to develop, increase, and regulate natural precipitation be encouraged; and that means be provided for the regulation and control of inter-

ference by artificial means with natural precipitation of rain, snow, hail, fog, moisture, or water in any form contained in the atmosphere, within the State, in order to develop, conserve, and protect the natural water resources of the State and to safeguard life and property, together with the crowded conditions of the calendars in both houses, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

BILL ANALYSIS

- Section 1. Cites this Act as the Weather Modification Act.
- Section 2. Defines terms used in this Act.
- Section 3. Enumerates the powers of the Texas Water Development Board, in addition to others authorized by law.
- Section 4. States the purposes for which the Board may conduct research and development activities.
- Section 5. Provides that records of all proceedings in the case of hearings shall be kept. Authorizes the Board to examine witnesses and issue subpoenas.
- Section 6. Provides that the Board may accept and expend funds for the administration of this act.
- Section 7. Provides for the issuance of licenses and permits.
- Section 8. Provides for exemptions from the license and permit requirements of this chapter.
- Section 9. States the procedures and requirements for licenses.
- Section 10. States the procedures and requirements for issuing permits.
- Section 11. Requires the licensee to confine his activities to the permitted operation and within the time and area set forth in the notice of intention.
- Section 12. States the contents of notices of intention.
- Section 13. Provides for publication of notice of intention.
- Section 14. Provides for proof of financial responsibility.
- Section 15. Sets the maximum permit fee at \$25.00
- Section 16. Provides for records to be kept by the licensee and reports to be filed with the Water Development Board.
- Section 17. Provides for suspending or revoking a license or permit.
- Section 18. Exempts the state from liability or responsibility for any weather modification and control activities of any private person.
- Section 19. Provides for fines and/or imprisonment for violators of this act.
- Section 20. Provides a severability clause.
- Section 21. Declares an emergency.

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H. B. _____

By Clayton

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AND REFERRED TO COMMITTEE ON

Conservation & Reclamation